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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,226	11/14/2001	Raymond Anthony Joao	RJ371	6756

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EXAMINER
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NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/987,226

Applicant(s)

JOAO, RAYMOND ANTHONY

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10,11 and 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 10-11 and 13-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/9/06.
2. Applicant's election without traverse of claims 1-9 and 12 in the reply filed on 7/9/06 is acknowledged.

### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. Claim 12 recites the limitation "said healthcare device" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ballantyne et al. (5,867,821).

(A) Referring to claim 1, Ballantyne discloses an apparatus for providing healthcare information, comprising (abstract of Ballantyne):

a processor, wherein said processor processes a request to access information contained in a patient's healthcare record, wherein said processor determines whether a requesting individual is authorized to access information contained in a patient's healthcare record, wherein said processor facilitates the accessing of the information contained in said healthcare record, and further wherein said processor generates a notification report containing information regarding the accessing of the information contained in said healthcare record; and a transmitter, wherein said transmitter transmits said notification report to a

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communication device associated with the patient (col. 7, line 67 – col. 8, line 60 of Ballantyne).

Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

(B) Referring to claim 2, Ballantyne discloses wherein the requesting individual is a healthcare provider (col. 8, lines 20-28 of Ballantyne).

Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

(C) Referring to claim 3, Ballantyne discloses a receiver, wherein said receiver receives said request to access information contained in a patient's healthcare record (col. 2, lines 18-20 and col. 7, line 67 – col. 8, line 2 of Ballantyne)

Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

(D) Referring to claim 4, Ballantyne discloses wherein said processor processes identification information associated with the requesting individual (col. 8, lines 28-31 of Ballantyne).

Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

(E) Referring to claim 5, Ballantyne discloses wherein said notification report contains information regarding accessing of the information contained in said healthcare record (col. 8, lines 52-60 of Ballantyne).

Insofar as the claim recites “at least one of,” it is immaterial whether or not the other elements are also disclosed.

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(F) Referring to claim 6, Ballantyne discloses wherein said processor stores information regarding said accessing of the information contained in said healthcare record (col. 8, lines 54-56 of Ballantyne).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(G) Referring to claim 7, Ballantyne discloses wherein said processor generates an activity report containing information regarding said accessing of the information contained in said healthcare record (col. 8, lines 52-60 of Ballantyne).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(H) Referring to claim 8, Ballantyne discloses wherein said transmitter transmits said activity report to a communication device associated with a patient (col. 8, lines 52-60 and col. 3, lines 60-67 of Ballantyne).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(I) Referring to claim 9, Ballantyne discloses a memory device for storing a restriction regarding an ability of an individual's to access information contained in a healthcare record (col. 8, lines 7-43 of Ballantyne); and

a processor for processing a request by an individual to access information contained in said healthcare record, wherein said processor processes said request by an individual in conjunction with said restriction regarding an individual's ability to access information contained in a healthcare record, and further wherein said processor determines whether the accessing of

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the information contained in said healthcare record is authorized (col. 8, lines 2-60 of Ballantyne).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(J) Referring to claim 12, Ballantyne discloses wherein said healthcare device is a magnetic resonance imaging (MRI) machine or device (col. 2, line 32 of Ballantyne).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

### ***Conclusion***


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method of managing and controlling access to personal information (6,073,106) and a computer-based patient record and message delivery system (US 6,216,104 B1).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
In  
8-7-06

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER